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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,928	06/20/2003	Hashem Akhavan-Tafti	4.1-86	6207
23700	7590	10/13/2004	EXAMINER	
LUMIGEN, INC. 22900 W. EIGHT MILE ROAD SOUTHFIELD, MI 48034				SOLOLA, TAOFIQ A
		ART UNIT		PAPER NUMBER
		1626		

DATE MAILED: 10/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/600,928	AKHAVAN-TAFTI ET AL.	
	Examiner Taofiq A. Solola	Art Unit 1626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 31-36 is/are allowed.
- 6) Claim(s) 1-4 and 30 is/are rejected.
- 7) Claim(s) 5-29 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____ .  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ .   | 6) <input type="checkbox"/> Other: _____ .                                  |

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "comprises", line 3, claim 1 and line 2, claim 4, renders the claims indefinite. The term is an open-ended term and cannot be used for a compound. By replacing "comprises an" with "is optionally substituted" in claim 1 and amend claim 4 as necessary the rejection would be overcome.

Claims 2-3 are improperly dependent on claim 1 for failure to limit the scope of claim 1. The claims recite the properties of the compound of claim 1. Since claims 1-3 have the same compounds, claims 2-3 are duplicates of claim 1. By deleting claims 2-3 the rejection would be overcome.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Kricka US 5,512,451.

Kricka discloses generic chemiluminecent compounds in columns 4-8 and the examples in columns 9-21. See also the claims and the attached abstract.

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Claims 1-3, 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Kricka et al., Proc. Of the Int. Symp. on Biolum. And Chemilum, 9<sup>th</sup>, Woods Hale, Mass, Oct. 4-8, 1996 (1997), Meeting Date 1996, 470-480.

Kricka et al., disclose chemiluminecent compounds on the attached abstract.

Claims 1-3, 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Kricka et al., Talanta (1997), Vol. 44, No. 6, pages 1073-079.

Kricka et al., disclose chemiluminecent compounds on the attached abstract.

***Allowable Subject matter***

Claims 31-36 are allowable over prior arts of record. Claims 5-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Telephone Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Taofiq A. Solola, PhD, JD, whose telephone number is (571) 272-0709.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph McKane, can be reached on (571) 272-0699. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

*Taofiq Solola*  
TAOFIQ SOLOLA  
PRIMARY EXAMINER  
1626